IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 321 of 1999

Between:

1 P. Ramachandra Reddy, S/o P. Govinda Reddy
R/o Sullurpet, Nellore Dist.
2 P. Padmavathi, W/o P. Krishna Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
3 P. Bhagyanalakshmi, w/o P. Ramachandra Reddy,
R/o Sullurpet, Nellore Dist.
4 P. Dasaradharami Reddy, S/o Govindha Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
5 P. Vardhanamma, W/o Govindha Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
6 G. Dasaradharami Reddy, S/o Peddathamlu Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
7 P. Suibrahmanyam Reddy, S/o Govindha Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
8 E. Chandrasekhar reddy, S/o Seshadra Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
9 E. Nagabhushnamma, D/o Seshadri Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
10 K. Govinda Reddy, s/o Krishna Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
11 A. Jaraya Reddy, S/o Kuppa Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
12 A. Kuppa Reddy, S/o Muni Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
13 B. Adepa Reddy, S/o Valla Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
14 G. Sumala Reddy, S/o Muni Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
15 G. Radhakrishna Reddy, S/o Muni Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
16 P. Subbamma, W/o Gurunadha Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
17 N. Govinda Reddy, S/o Chinna reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
18 P. Munuswamy reddy, S/o Venkataswamy Reddy,

R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
19 N. Krishna Reddy, S/o Raghava Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
20 Ch. Krishna Reddy, S/o Arikata Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
21 Ch. Subba Reddy, S/o Rami Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
22 L. Rami Reddy, S/o Rami Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
23 P. Pali Reddy, S/o Raghava Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
24 P. Indranamma, W/o Govindha Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
25 Ch. Venkataramanaiah, S/o Venkaswamy Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
26 K. Munuswamy Reddy, S/o Kuppa reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
27 Ch. Jaraya Reddy, S/o Yerrappa Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
28 Ch. Radha Reddy, s/o Muni Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
29 M. Govindha Reddy, S/o Yerrapa Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
30 K. Lakshmamma, W/o Kistaiah,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
31 B. Govinda Reddy, S/o Raghava Reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
32 M. Nallaiah, S/o Yellaiah,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
33 Ch. Chinna Thambureddy, S/o Muni reddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.
34 T. Pottamma, W/o Govireddy,
R/oGopalnagar Ragadichelaka (V), H/o Talamachi, Nellore dist.

..... PETITIONERS

AND

1 Govt. of A.P. Rep by Prl. Secretary,
Revenue Department, Hyderabad.
2 The Commissioner of Land Revenue
Govt. Of A.P., Station road, Nampally, Hyderabad.
3 The Dist Collector, Nellore Dist, Nellore.
4 The Mandal Revenue Officer, Kodavaluru Madnal, Nellore dist.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in seeking to dispossess the

petitioners from an extent of Ac.86.27 cents of land in survey Nos.782,797,811,813,832,834,840,841 ,842,844,848,849, 855,858,861,869,871,872,873,878 & 880 of Gopalnagar ,Regadichelaka (V) H/o of Talamachi , Kodavaluru Mandal, Nellore Dist for the purpose of alloting the same to the IFFCO Company without initiating the proceeding the proceedings under the land Acquisition act or under G.O.Ms No.1307 dated 29-12-93 and without paying compensation to the petitioners and the order passed by the 4th respondent in his proceedings RCB.1815/90 dated 6-3-97 as illegal arbitrary unjust without jurisdiction and violating of Articles 14 , 19(1) (g),21 & 300-A of the Constitution of India and consequently direct the respondent not to dispossesses the petitioners from the said extent of land without initiating proceedings either under the Land Acquisition Act or under G.O.Ms.No.1307 dated 29-12-93.

Counsel for the Petitioners: MR.P.SRIDHAR REDDY

Counsel for the Respondents : GP FOR ASSIGNMENT

The Court made the following:

ORDER:

The Government of Andhra Pradesh acquired large extent of land for establishing SHAR project under Land Acquisition Act, 1894 (for short, the Act). The Government also issued G.O.Ms.No.1024 dated 02.11.1970 assigning an extent of Acs.5.00 each to the land owners in addition to the compensation under the Act treating all the land oustees as displaced persons. The petitioners' lands in Sriharikota village, Sulluripet Mandal, were also acquired and they were also allotted land in Regadichelaka village, hamlet of Talamanchi in Kodavaluru Mandal. The petitioners allege that the condition of inalienability has no application to the assignment made to the petitioners as they were given lands for the purpose of rehabilitation. They allege that so as to provide lands for IFFCO, the respondents are contemplating to resume the lands treating the petitioners as landless assignees. Therefore, they filed the writ petition seeking a direction to the respondents not to dispossess the petitioners without initiating proceedings under the Land Acquisition Act.

The writ petition was admitted by this Court on 12.01.1999 and this Court also ordered *status quo* in W.P.M.P.No.370 of 1999.

The Mandal Revenue Officer has filed a detailed counter affidavit placing the history of the litigation. However, it is not necessary to refer the same in detail having regard to the judgment delivered by this Court in writ petition No.283 of 1999 dated 21.07.2004. The said writ petition was filed by the persons, who purchased the lands from land oustees. Be that as it is, I see force in the submission of the learned counsel for the petitioners that when the District Collector and the Government have clarified in various orders, to which the attention of this Court has been invited, that the condition of inalienability has no application to the lands allotted to the petitioners, it would not be proper for the respondents to forcibly resume the land

without resorting to the provisions of the Land Acquisition Act. Indeed, a Full Bench of seven learned Judges of this Court in **Land Acquisition Officer-cum-R.D.O. v Mekala Pandu** have laid down that even when the land assigned to a poor person is resumed, the Government have to pay compensation in accordance with the provisions of Land Acquisition Act. The Full Bench laid the *ratio decidendi* of the said judgment is as under:

> In the circumstances, we hold that the assignees of the government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on part with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

Therefore, the writ petition is disposed of directing that the respondents shall not interfere with the possession of the petitioners except as provided under law. There shall be no order as to costs.

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(V.V.S.RAO,J)

02.08.2004.

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat, Hyderabad.

2. The Commissioner of Land Revenue, Government of Andhra Pradesh, Station Road, Nampally, Hyderabad.

3. The District Collector, Nellore District, Nellore.

4. The Mandal Revenue Officer, Kodavaluru Mandal, Nellore Dist.

5. 2 CCs to the G.P. for Assignment, High Court Buildings, Hyderabad. (OUT)

6. 2 CD copies.